

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA)
)
)
v.) No. 3:19-cr-083-M-1
)
RUEL M. HAMILTON) Judge Barbara M. G. Lynn
)

**MR. HAMILTON'S RESPONSE TO GOVERNMENT'S NOTICE REGARDING
INTENT TO CONTINUE ITS PROSECUTION**

Pursuant to the Court's March 22, 2023 Order (Dkt. 461), Ruel M. Hamilton provides this response to the Government's March 22, 2023 notice of its intent to retry this case (Dkt. 460).

While there have been, and may continue to be, conversations between the parties relating to alternatives to a retrial, Mr. Hamilton agrees a retrial schedule should be set. However, Mr. Hamilton opposes the Government's suggested trial date of April 24 because his counsel cannot reasonably try this case the week of April 24 for the reasons set out below.

Instead, Mr. Hamilton respectfully asks the Court to set a schedule that considers and accommodates the following issues:

(1) The Fifth Circuit's decision raised several new issues for motions to be briefed and considered by the Court. Among these are reconsideration of some of the matters the Fifth Circuit addressed (*e.g.*, all the effects of eliminating a gratuity theory of prosecution, as well as the Circuit Court's reference to entrapment, evidence objections, and First Amendment concerns in the Government's prosecution). In addition, Defense Counsel is currently researching a potential new motion prohibiting retrial of Count 3 as a violation of the double jeopardy clause which, if brought, either side could appeal.

(2) The time needed to recirculate a revised written jury questionnaire and provide reasonable notice to a venire. A trial date approximately thirty days away cannot accommodate timely completion of this work and the obtaining of necessary information regarding the potential venire.

(3) Defense Counsels' preexisting commitments in other pending cases and to other clients and personal matters. In addition, Mr. Hamilton has requested additional local defense counsel for any retrial and his existing Defense Counsel would respectfully request the opportunity to address this lawyer's availability for trial prior to setting a new trial date.

It was not possible to predict when the Fifth Circuit would rule, the implications of the Circuit's opinion on issues implicated by any retrial, or when the Government would make any decision on a retrial. Accordingly, Mr. Hamilton is raising these issues at the earliest practicable time for the Court's consideration. Putting aside the possibility of an appeal on any new motion, if the Court has the availability, Defense Counsel would ask for a retrial in the beginning of July.

Defense Counsel further respectfully requests a status conference to discuss the issues raised above either by telephone or other remote means at the Court's convenience, unless the Court desires it to be in person.

Dated: March 29, 2023

Respectfully submitted,

/s/ Abbe David Lowell

Abbe David Lowell, Bar No. 358651DC
Christopher D. Man, Bar No. 453553DC
Kaitlin Pierce Marino, Bar No. 242020DC
WINSTON & STRAWN LLP
1901 L Street, NW
Washington, DC 20036
ADLowell@winston.com

Dion J. Robbins, Bar No. 24114011TX
WINSTON & STRAWN LLP
2121 N. Pearl Street, Suite 900
Dallas, TX 75201
DRobbins@winston.com
214-453-6100 (ph)
214-453-6400 (fax)

202-282-5000 (ph)
202-282-5100 (fax)

Counsel for Defendant Ruel M. Hamilton

CERTIFICATE OF SERVICE

I certify that on March 29, 2023, a copy of the foregoing was filed with the Court's electronic case filing system, thereby effecting service on counsel for all parties.

/s/Abbe David Lowell
Abbe David Lowell